

# HYATT LEGAL SERVICES

1215 Superior Avenue  
Cleveland, Ohio 44114-3249  
(216)694-4337

FEDERAL EXPRESS

December 19, 1989

Sid J. White, Clerk  
Supreme Court of Florida  
500 S. Duvall St.  
Tallahassee, FL 32399-1927

RE: Proposed Amendments to the Advertising Rules of  
The Florida Bar

Case: #74,987

Dear Mr. White:

These comments are directed to that part of Section 4-7.2(b) of the proposed Advertising Rule Amendments which states as follows:

Further, the lawyer who personally appears in any advertisement must be a member of The Florida Bar.

I have enclosed the original plus eight copies of these comments. Please distribute these to each member of the Supreme Court of Florida. Please also time stamp and return a copy of these comments to me in the enclosed stamped envelope.

The provision identified in paragraph three of the Petition and designated as 4-7.2(b) in the proposed rules, requires that the lawyer who personally appears on television as part of an advertisement must be a member of The Florida Bar. That provision is inconsistent with other provisions of the proposed amendments, appears to be specifically targeted against Hyatt Legal Services and is unconstitutional.

### Background

By way of background, it may be useful for you to know that Hyatt Legal Services is one of the largest law firms in the United States with 171 offices and nearly 450 attorneys in 19 states and the District of Columbia. In 1989, the firm provided legal counseling to approximately 225,000 clients nationwide. Hyatt Legal Services was founded with the purpose of making high quality legal counseling conveniently available and affordable to the large middle-income segment of our population that has been inadequately served by the legal profession.

**FILED**

SID J. WHITE

DEC 20 1989

CLERK, SUPREME COURT

By \_\_\_\_\_

Deputy Clerk

Andrew Kohn\*  
General Counsel

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\*Also admitted in Missouri and Pennsylvania

The consistent themes underlying our firm's approach to the delivery of legal services are quality and accessibility. The firm hires only experienced and qualified local practitioners, in Florida they are all members of The Florida Bar. The firm maintains strict quality control standards. Hyatt Legal Services' offices in Florida are located in Orlando, Tampa and St. Petersburg and are in ~~or~~ near major neighborhood shopping centers. The offices are open evenings and Saturdays so that middle-income people need not miss work in order to obtain legal counseling.

The spokesperson for Hyatt Legal Services is Joel Hyatt, an attorney who is admitted to practice law in the state of Ohio. He is the spokesperson for the firm in all 19 states and the District of Columbia. None of the other jurisdictions in which Hyatt Legal Services has offices requires the spokesperson be a member of the jurisdiction in which that firm has offices. The effect of the proposed amendment to the advertising rules in Florida would be to prevent Hyatt Legal Services from conducting business in the same manner it conducts business in all of its other jurisdictions. I do not believe this result was intended by the proposed rules in view of Section 4-7.7 (d) on firm names. In addition, such an amendment would deny Hyatt Legal Services a constitutionally protected right to advertise legal services.

#### Firm Names

The proposed rule permitting only lawyers to appear on television who are members of The Florida Bar is inconsistent with Section 4-7.7 (d) relating to firm names and letterheads which states, "a law firm with offices in more than one jurisdiction may use the same name in each jurisdiction."

#### Constitutionality

The proposed amendment to The Florida Bar Rules on Advertising requiring a lawyer who personally appears on television to be a member of The Florida Bar is similar to the residency requirements contained in the bar admission cases which the United States Supreme Court has found to be unconstitutional. The most recent rulings were in Piper vs. Supreme Court of New Hampshire 470 US 274 (1985) and Supreme Court of Virginia vs. Friedman 487 US \_\_\_\_\_, 101 L.Ed.2nd 56 (1988). In both those cases, the United States Supreme Court struck down residency requirements as they related to the practice of law in a state. The state cannot discriminate against non-residents in regulating a constitutional right unless it has a substantial and legitimate reason for doing so and the legitimate needs of the state cannot be met in less restrictive ways.

In this particular situation, The Florida Bar will be restricting Joel Hyatt and Hyatt Legal Services from exercising constitutionally protected speech. The Florida Bar has made no justification for this provision and has not even stated its needs. There is no way **for** this court to determine if there are less restrictive ways to meet these needs.

The Florida Supreme Court should not implement this provision of Section 4-7.2 (b) .

Please let me know if you need any additional information on any of these issues.

Thank you.

Very truly yours,  
HYATT LEGAL SERVICES



Andrew Kohn  
General Counsel

AK/jlb  
2036K

Enclosure

cc: Patricia J. Allen  
Ethics Counsel  
Florida Bar  
650 Apalachee Parkway  
Tallahassee, FL 32399-2300

Alan C. Sundberg  
Carlton, Fields, Ward, Emmanuel  
Smith & Cutler, P.A.  
215 S. Monroe St.  
410 First Florida Bank  
PO Drawer 190  
Tallahassee, FL 32302